

AMENDED IN SENATE APRIL 28, 2003

AMENDED IN SENATE APRIL 10, 2003

SENATE BILL

No. 1063

**Introduced by Committee on Revenue and Taxation (Senators
Cedillo (Chair), Alpert, Bowen, and Burton)**

February 27, 2003

An act to amend Sections 1614, 3692, 3698.5, 3698.7, 4112, 4675, and 5104 of, to add Sections ~~2910.2, 3794.3~~, 3794.3 and 4672.3 to, and to repeal Sections 1612 and 1613 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1063, as amended, Committee on Revenue and Taxation. Property taxation: county equalization: administration.

Existing law requires the clerk of a county board of equalization to record changes to the county property tax roll and to prepare a monthly statement of these changes, as provided. Existing law requires the clerk to deliver this statement to the county auditor once monthly with a sworn affidavit that the changes are complete as of a specified date.

This bill would repeal the requirement that the clerk deliver this statement with a sworn affidavit. This bill would also consolidate the provisions requiring the clerk to record and prepare a statement of monthly changes to the roll.

Existing law authorizes a county board of equalization, 5 days after its clerk sends notice to interested parties that a matter will be investigated, to direct the county assessor to (1) assess any taxable property in the county that has escaped assessment, (2) change the amount, number, quantity, or description of property on the local roll,

or (3) make and enter new assessments, at the same time canceling previous entries, when any assessment made by the assessor is deemed by the county board to be so incomplete that it renders doubtful the collection of the tax.

This bill would repeal that authorization.

~~Existing law authorizes the tax collector to mail or electronically transmit a tax bill for every assessment on the unsecured roll on which taxes are due, as provided:~~

~~This bill would authorize tax collectors and auditor-controllers to mail or electronically transmit an unsecured tax bill for the amount of a tax refund made to an incorrect payee.~~

Existing law requires the tax collector to attempt to sell tax-defaulted property within 4 years of the time that property becomes subject to sale for nonpayment of taxes, and requires the Notice of Power to Sell Tax-Defaulted Property, Notice of Power and Intent to Sell Tax-Defaulted Property, Notice to the Board of Supervisors, and Notice of Intended Sale of Tax-Defaulted Property to indicate that any parcel remaining unsold may be reoffered within a 90-day period.

This bill would repeal the requirement that the Notice of Power to Sell Tax-Defaulted Property and the Notice of Power and Intent to Sell Tax-Defaulted Property indicate that any parcel remaining unsold may be reoffered within a 90-day period.

Existing law requires the price at which certain tax-defaulted property may be offered for sale to be the total amount necessary to redeem the property, plus costs, and prescribes the manner of distribution of proceeds from the sale of tax-defaulted property.

This bill would include in those costs the actual and reasonable costs incurred by the tax collector in informing the owner-occupant of the property to be sold, in the case of the proposed tax sale of property that is the primary residence of the last known assessee, of his redemption rights and that the property, if not redeemed, will be offered for sale. This bill would also require the distribution of those costs to the tax collector, after distribution of a certain amount into the state General Fund.

Existing property tax law generally authorizes a county tax collector to sell tax-defaulted property 5 years or more after that property has become tax defaulted.

This bill would expressly require the approval of the county board of supervisors for the sale of that tax-defaulted property.



Existing law authorizes any party of interest in the property to file with the county a claim for the excess proceeds from the sale of tax-defaulted property, at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.

This bill would, in the event that a person with title of record is deceased at the time of distribution of the excess process, authorize that person's heirs to submit an affidavit to support their claim for excess proceeds.

Existing law, under certain conditions, authorizes the payment of a property tax refund, made on the basis of a reduction in the value of taxable property, to the latest recorded owner of that property as shown on the tax roll, rather than to the individual or entity that paid the amount of tax to be refunded.

This bill would authorize the refund of assessments in addition to a refund of taxes, and would additionally allow refunds to be made on the basis of corrections to the roll or cancellations after taxes or assessments were paid.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1612 of the Revenue and Taxation Code
2 is repealed.

3 SEC. 2. Section 1613 of the Revenue and Taxation Code is
4 repealed.

5 SEC. 3. Section 1614 of the Revenue and Taxation Code is
6 amended to read:

7 1614. (a) The clerk of the county board shall keep an accurate
8 record of all changes to the roll and all orders made by the county
9 board. On the second Monday of each month the clerk shall deliver
10 the statement of all changes to the roll made by the county board
11 during the preceding calendar month.

12 (b) This section does not prohibit the clerk from transmitting
13 to the auditor changes to the roll more frequently than once per
14 month.

15 (c) This section shall not be construed to require the clerk to
16 deliver the statement described in subdivision (a) for a month in
17 which the county board has made no changes to the roll.

1 ~~SEC. 4.—~~ Section 2910.2 is added to the Revenue and Taxation
2 Code, to read:

3 ~~2910.2.—~~ The auditor-controller or tax collector may mail or
4 electronically transmit an unsecured tax bill for the amount of a tax
5 refund made to an incorrect payee. Failure to receive a tax bill shall
6 not relieve the lien of taxes, nor shall it prevent the imposition of
7 penalties imposed by this code. However, the penalty imposed for
8 delinquent taxes as provided by any section in this code shall be
9 canceled, if the assessee convinces the tax collector that he or she
10 did not receive the tax bill mailed to the address provided on the
11 tax roll or electronic address provided and authorized by the
12 taxpayer to the tax collector.

13 ~~SEC. 5.—~~

14 ~~SEC. 4.~~ Section 3692 of the Revenue and Taxation Code is
15 amended to read:

16 3692. (a) The tax collector shall attempt to sell tax-defaulted
17 property as provided in this chapter within four years of the time
18 that the property becomes subject to sale for nonpayment of taxes
19 unless by other provisions of law the property is not subject to sale.
20 If there are no acceptable bids at the attempted sale, the tax
21 collector shall attempt to sell the property at intervals of no more
22 than six years until the property is sold.

23 (b) When oil, gas, or mineral rights are subject to sale for
24 nonpayment of taxes, the tax collector may offer the interest at
25 minimum bid to the holders of outstanding interests where the
26 interest subject to sale is a partial interest or, where the interest
27 subject to sale is a complete and undivided interest, to the owner
28 or owners of the property to which the oil, gas, or mineral rights
29 are appurtenant.

30 (c) When parcels that are rendered unusable by their size,
31 location, or other conditions are subject to sale for nonpayment of
32 taxes, the tax collector may offer the parcel at a minimum bid to
33 owners of contiguous parcels. The tax collector shall require that
34 the successful bidder request the assessor and the planning director
35 to combine the unusable parcel with the bidder's own parcel as a
36 condition of sale.

37 (d) Sealed bid sale procedures shall be used when offers are
38 made pursuant to subdivision (b) or subdivision (c), and the
39 property shall be sold to the highest eligible bidder. The offers shall

1 remain in effect for 30 days or until notice is given pursuant to
2 Section 3702, whichever is later.

3 (e) The Notice to the Board of Supervisors and Notice of
4 Intended Sale of Tax-Defaulted Property shall indicate that any
5 parcel remaining unsold may be reoffered within a 90-day period
6 and any new parties of interest shall be notified in accordance with
7 Section 3701. This subdivision shall not apply to properties sold
8 pursuant to Chapter 8 (commencing with Section 3771).

9 ~~SEC. 6.~~

10 *SEC. 5.* Section 3698.5 of the Revenue and Taxation Code is
11 amended to read:

12 3698.5. (a) Except as provided in Section 3698.7, the
13 minimum price at which property may be offered for sale pursuant
14 to this chapter shall be an amount not less than the total amount
15 necessary to redeem, plus costs. For purposes of this subdivision:

16 (1) The “total amount necessary to redeem” is the sum of the
17 following:

18 (A) The amount of defaulted taxes.

19 (B) Delinquent penalties and costs.

20 (C) Redemption penalties.

21 (D) A redemption fee.

22 (2) “Costs” are those amounts described in subdivision (c) of
23 Section 3704.7, subdivisions (a) and (b) of Section 4112, Sections
24 4672, 4672.1, 4672.2, 4673, and subdivision (b) of Section
25 4673.1.

26 (b) This section shall not apply to property or interests that
27 qualify for sale in accordance with the provisions of subdivisions
28 (b) and (c) of Section 3692.

29 (c) Where property or property interests have been offered for
30 sale at least once and no acceptable bids therefor have been
31 received at the minimum price determined pursuant to subdivision
32 (a), the tax collector may, in his or her discretion and with the
33 approval of the board of supervisors, offer that same property or
34 those interests at the same or next scheduled sale at a minimum
35 price that the tax collector deems appropriate in light of the most
36 current assessed valuation of that property or those interests, or any
37 unique circumstance with respect to that property or those
38 interests.

39 ~~SEC. 7.~~

1 SEC. 6. Section 3698.7 of the Revenue and Taxation Code is
2 amended to read:

3 3698.7. (a) With respect to property for which a property tax
4 welfare exemption has been granted and that has become tax
5 defaulted, the minimum price at which the property may be offered
6 for sale pursuant to this chapter shall be the higher of the
7 following:

8 (1) Fifty percent of the fair market value of the property. For the
9 purposes of this paragraph, “fair market value” means the amount
10 as defined in Section 110 as determined pursuant to an appraisal
11 of the property by the county assessor within one year immediately
12 preceding the date of the public auction. From the proceeds of the
13 sale, there shall be distributed to the county general fund an
14 amount to reimburse the county for the cost of appraising the
15 property. The value of the property as determined by the assessor
16 pursuant to an appraisal shall be conclusively presumed to be the
17 fair market value of the property for the purpose of determining the
18 minimum price at which the property may be offered for sale.

19 (2) The total amount necessary to redeem, plus costs. For
20 purposes of this paragraph:

21 (A) The “total amount necessary to redeem” is the sum of the
22 following:

23 (i) The amount of defaulted taxes.

24 (ii) Delinquent penalties and costs.

25 (iii) Redemption penalties.

26 (iv) A redemption fee.

27 (B) “Costs” are those amounts described in subdivision (c) of
28 Section 3704.7, subdivisions (a) and (b) of Section 4112, Sections
29 4672, 4672.1, 4672.2, and 4673, and subdivision (b) of Section
30 4673.1.

31 (b) This section shall not apply to property or interests that
32 qualify for sale in accordance with the provisions of subdivisions
33 (b) and (c) of Section 3692.

34 (c) Where property or property interests have been offered for
35 sale at least once and no acceptable bids therefor have been
36 received, the tax collector may, in his or her discretion and with the
37 approval of the board of supervisors, offer that property or those
38 interests at the next scheduled sale at a minimum price that the tax
39 collector deems appropriate.

40 SEC. 8.—

1 *SEC. 7.* Section 3794.3 is added to the Revenue and Taxation
2 Code, to read:

3 3794.3. A sale under this chapter shall take place only if
4 approved by the board of supervisors.

5 ~~SEC. 9.~~

6 *SEC. 8.* Section 4112 of the Revenue and Taxation Code is
7 amended to read:

8 4112. (a) When tax-defaulted property subject to the notice
9 recorded under Section 3691.4 is redeemed, the tax collector shall
10 collect all of the following, in addition to the amount required to
11 redeem:

12 (1) A fee of thirty-five dollars (\$35) that shall be distributed to
13 the county general fund to reimburse the county for its cost of
14 obtaining the names and last known mailing addresses of, and for
15 mailing notices required by Section 3701 to, parties of interest as
16 defined by Section 4675.

17 (2) A fee in the amount required by Section 27361.3 of the
18 Government Code that shall be distributed to the county recorder
19 for the cost of recordation of a rescission of the notice, as required
20 by subdivision (c).

21 (3) A fee of one hundred fifty dollars (\$150) if redemption is
22 within 90 days of the proposed date for the tax sale of the redeemed
23 property. In the case of unsold tax sale properties remaining on the
24 abstract after the tax sale, the fee shall become a part of the
25 redemption amount and collectible whenever the property is
26 redeemed. The fee shall be distributed to the county general fund
27 to reimburse the county for costs incurred by the county in
28 preparing to conduct that sale.

29 (4) The amount described in subdivision (c) of Section 3704.7
30 to reimburse the county for the cost of a personal contact required
31 by that section.

32 (b) Notwithstanding subdivision (a), if the tax-defaulted
33 property is redeemed prior to the proposed sale, but after the
34 county has incurred notice or publication costs pursuant to Section
35 3702 in connection with a notice of intended sale, a fee in an
36 amount reasonably necessary to reimburse the tax collector for
37 those costs may be collected.

38 (c) When tax-defaulted property subject to the notice recorded
39 under Section 3691.4 is redeemed, the notice becomes null and
40 void and the tax collector shall execute and record with the county

1 recorder a rescission of the notice in the form prescribed by the
2 Controller. The rescission shall be acknowledged by the county
3 clerk, without charge.

4 (d) Any fee imposed under paragraph (1) of subdivision (a) or
5 subdivision (b) shall be subject to the requirements of Section
6 54986 of the Government Code.

7 ~~SEC. 10.~~

8 *SEC. 9.* Section 4672.3 is added to the Revenue and Taxation
9 Code, to read:

10 4672.3. (a) To reimburse the county for the costs of a
11 personal contact, there shall be distributed to the tax collector a
12 sum equal to the total amount of costs of the tax collector, but not
13 to exceed one hundred dollars (\$100), incurred in conducting the
14 personal contact pursuant to Section 3704.7, for all or any portion
15 of each separately valued parcel of real property subject to a power
16 of sale and sold to private parties or a taxing agency.

17 (b) The amount of the costs shall be paid from the total amount
18 to be distributed from the sold property, after satisfaction of the
19 amount specified in Section 4672. If, after satisfaction of the
20 amount specified in Section 4672, there is insufficient funds to pay
21 the costs specified in subdivision (a), the costs shall be reduced
22 accordingly.

23 ~~SEC. 11.~~

24 *SEC. 10.* Section 4675 of the Revenue and Taxation Code is
25 amended to read:

26 4675. (a) Any party of interest in the property may file with
27 the county a claim for the excess proceeds, in proportion to his or
28 her interest held with others of equal priority in the property at the
29 time of sale, at any time prior to the expiration of one year
30 following the recordation of the tax collector's deed to the
31 purchaser.

32 (b) After the property has been sold, a party of interest in the
33 property at the time of the sale may assign his or her right to claim
34 the excess proceeds only by a dated, written instrument that
35 explicitly states that the right to claim the excess proceeds is being
36 assigned, and only after each party to the proposed assignment has
37 disclosed to each other party to the proposed assignment all facts
38 of which he or she is aware relating to the value of the right that
39 is being assigned. Any attempted assignment that does not comply
40 with these requirements shall have no effect. This paragraph shall

1 apply only with respect to assignments on or after the effective date
2 of this paragraph.

3 (c) Any person or entity who in any way acts on behalf of, or
4 in place of, any party of interest with respect to filing a claim for
5 any excess proceeds shall submit proof with the claim that the
6 amount of excess proceeds has been disclosed to the party of
7 interest and that the party of interest has been advised of his or her
8 right to file a claim for the excess proceeds on his or her own
9 behalf.

10 (d) The claims shall contain any information and proof deemed
11 necessary by the board of supervisors to establish the claimant's
12 rights to all or any portion of the excess proceeds.

13 (e) No sooner than one year following the recordation of the tax
14 collector's deed to the purchaser, and if the excess proceeds have
15 been claimed by any party of interest as provided herein, the excess
16 proceeds shall be distributed on order of the board of supervisors
17 to the parties of interest who have claimed the excess proceeds in
18 the order of priority set forth in subdivisions (a) and (b). For the
19 purposes of this article, parties of interest and their order of priority
20 are:

21 (1) First, lienholders of record prior to the recordation of the tax
22 deed to the purchaser in the order of their priority.

23 (2) Second, any person with title of record to all or any portion
24 of the property prior to the recordation of the tax deed to the
25 purchaser.

26 (f) In the event that a person with title of record is deceased at
27 the time of the distribution of the excess proceeds, the heirs may
28 submit an affidavit pursuant to Chapter 3 (commencing with
29 Section 13100) of Part 1 of Division 8 of the Probate Code, to
30 support their claim for excess proceeds.

31 (g) Any action or proceeding to review the decision of the
32 board of supervisors shall be commenced within 90 days after the
33 date of that decision of the board of supervisors.

34 ~~SEC. 12.—~~

35 *SEC. 11.* Section 5104 of the Revenue and Taxation Code is
36 amended to read:

37 5104. Any refund of taxes or assessments authorized pursuant
38 to this article as a result of a reduction in the value of taxable
39 property or as the result of corrections to the roll or cancellations
40 after taxes or assessments were paid, may be paid to the latest

1 recorded owner of that property as shown on the tax roll, rather
2 than to the individual or entity who paid the amount of tax or
3 assessment to be refunded, if both of the following conditions are
4 met:

5 (a) There has been no transfer of the property during or since
6 the fiscal year for which the taxes subject to refund were levied.

7 (b) The amount of the refund is less than five thousand dollars
8 (\$5,000).

